

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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NORMA KNOPF and MICHAEL KNOPF,	:	17cv5833 (DLC)
	:	
Plaintiffs,	:	<u>ORDER</u>
-v-	:	
	:	
FRANK M. ESPOSITO, DORSEY & WHITNEY,	:	
LLP, NATHANIEL H. AKERMAN, EDWARD S.	:	
FELDMAN, and MICHAEL HAYDEN SANFORD,	:	
	:	
Defendants.	:	
	:	
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DENISE COTE, District Judge:

As explained in defendant Esposito's letter of March 1, 2021 and its attachments, the plaintiffs rejected his February 17 offer of judgment on February 18 and then, without notifying the Court of that rejection, filed a purported acceptance of the offer on March 1. Unaware of the rejection, the Court cancelled a conference scheduled for this afternoon to address Esposito's request for discovery. Esposito requests that the Court reinstate the conference.

Rule 68 states that an "unaccepted offer is considered withdrawn." Fed. R. Civ. P. 68 (b). "When a plaintiff rejects such an offer . . . her interest in the lawsuit remains just what it was before . . . . An unaccepted settlement offer -- like any unaccepted contract offer -- is a legal nullity, with no operative effect . . . . Nothing in Rule 68 alters that basic


principle." Campbell-Ewald Co. v. Gomez, 577 U.S. 153, 162  
(2016) (citation omitted).

The plaintiffs having rejected Esposito's Rule 68 offer of judgment, they should not have filed an acceptance of that offer. Accordingly, it is hereby

ORDERED that the telephone conference scheduled for **March 2, 2021 at 2:00pm** shall proceed as originally scheduled.

IT IS FURTHER ORDERED that Esposito shall serve the District Attorney's Office with this Order.

Dated: New York, New York  
March 2, 2021

  
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DENISE COTE  
United States District Judge